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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,795	10/07/2003	Eric G. Hull	427600700085	4803

7590 04/13/2007

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EXAMINER	
ESTRADA, ANGEL R	
ART UNIT	**PAPER NUMBER**
2831	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/680,795	HULL ET AL.	
	Examiner	Art Unit	
	Angel R. Estrada	2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 September 2006 and 13 June 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,11,16 and 25-46* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *11,16,29,30 and 36-46* is/are allowed.

6)☒ Claim(s) *1,2,25-27,31,32,34 and 35* is/are rejected.

7)☒ Claim(s) *3,28 and 33* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) • Paper No(s)/Mail Date *9/18/06 & 6/13/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Reopen Prosecution-After Notice of Allowance

1. Prosecution on the merits of this application is reopened on claims 1, 2, 25-27, 31, 32, 34 and 35 considered unpatentable for the reasons indicated below:

2. Applicant is advised that the Notice of Allowance mailed on December 20, 2004 is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

Information Disclosure Statement

3. The information disclosure statements filed on June 13, 2006 and September 18, 2006 have been considered by the Examiner.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 25-27, 31, 32 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakazawa (JP 5276632).

Regarding claim 1, Nakazawa discloses a mud box (40) having an open end and a peripheral sidewall (see figure 1), a plurality of resilient spring legs (30) attached to said box (40), said legs (30) having free end portions engageable with one form surface for biasing said box in a direction to engage said box open end with an opposite form surface (see figure 2), said free end portions being spaced-apart a distance greater than the maximum distance across said peripheral sidewall so that the free end portions extend outwardly beyond the peripheral sidewall (see figure 2).

Regarding claim 2, Nakazawa discloses the box (40) wherein said box (40) has a bottom wall opposite from said open end, said spring legs (30) being attached to said bottom wall (see figures 1 and 2).

Regarding claim 25, Nakazawa discloses a support kit (see figure 1) for attachment to an electrical mud box (40), said kit including a pair of generally U-shaped spring leg members (30), each spring leg member (30) having a central attachment portion (10) with an attachment opening (23) therethrough, and each spring leg member (30) having a pair of legs (see figure 2) diverging outwardly from said attachment portion (10) and terminating in leg end portions that are spaced-apart a distance greater than the length of said central attachment portion (see figure 2).

Regarding claim 26, Nakazawa discloses the kit (see figure 1) wherein said attachment portion (10) is generally flat and said attachment opening (23) is elongated along the length of said attachment portion (10).

Regarding claim 27, Nakazawa discloses the kit (see figure 1) including a flat bendable strap (22) having a central attachment opening (23) therethrough (see figure 2).

Regarding claim 31, Nakazawa discloses a mud box (40) having an open end, a plurality of resilient spring legs (30) attached to said box (40), said legs (30) having free end portions engageable with one form surface for biasing said box in a direction to engage said box open end with an opposite form surface (see figure 2), and an elongated bendable strap (10) attached to said box (40).

> Note: it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987). Therefore this limitation "for attachment to reinforcement rods between spaced form", has not been given any patentable weight.

Regarding claim 32, Nakazawa discloses a mud box (40) having an open end, a plurality of resilient spring legs (30) attached to said box (40), said legs (30) having free end portions engageable with one form surface for biasing said box in a direction to engage said box open end with an opposite form surface (see figure 2), said spring legs (30) being defined by a pair of spring members (see figure 2), each spring member having a central attachment portion (10) with a pair of spring legs (30) extending therefrom, and said attachment portions (10) being attached to said box in perpendicular (see figure 2) relationship to one another to provide four spaced- apart spring legs extending outwardly from said box (see figure 2).

Regarding claim 34, Nakazawa discloses a mud box (40) having an open end, a plurality of resilient spring legs (30) attached to said box (40), said legs (30) having free

end portions engageable with one form surface for biasing said box in a direction to engage said box open end with an opposite form surface (see figure 2), said spring legs (30) supporting said box between a pair of spaced-apart parallel concrete forms with inner form surfaces spaced-apart between 6-8 inches (see figure 2).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakazawa (JP 5276632).

Regarding claim 35, Nakazawa discloses a mud box having an open end, a plurality of resilient spring legs (30) attached to said box (40), said legs having free end portions engageable with one form surface for biasing said box in a direction to engage said box open end with an opposite form surface (see figure 2); but Nakazawa lacks each spring leg having a reversely curved bifurcated end portion. It would have been an obvious matter of design choice to make each spring leg having a reversely curved bifurcated end portion, since such a modification would have involved a mere change in the shape of a component. Where the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular shape, a

change of shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Allowable Subject Matter

6. Claims 11, 16, 29, 30 and 36-46 are allowed.

Claims 3, 28 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: The primary reason for the indication of the allowability of claims 3, 11, 16, 28-30, 33 and 36-46 are:

Regarding claim 3, the prior art does not teach or fairly suggest in combination with the other claimed limitations of said bottom wall having an external attachment projection molded integrally therewith to which said spring legs are attached.

Regarding claims 11 and 16, the prior art does not teach or fairly suggest in combination with the other claimed limitations said bottom wall having an external surface, and a projection molded integrally with said bottom wall on said external surface thereof for attaching support legs to said box, said projection being centrally located on said bottom wall and extending outwardly from said external surface thereof; said projection having a central cylindrical portion and a transverse projection portion that is spaced outwardly from said bottom wall external surface, said projection having a length one direction perpendicular to said cylindrical portion that is greater than its width in a second direction perpendicular to said one direction.

Regarding claim 28, the prior art does not teach or fairly suggest in combination with the other claimed limitations the kit wherein said attachment opening in each of said spring member corresponds in size and shape to the size and shape of said attachment opening in said strap.

Regarding claims 29 and 30, the prior art does not teach or fairly suggest in combination with the other claimed limitations a plurality of abutments on said bottom wall spaced outwardly from said projection and forming abutment guideways therebetween, a plurality of spring legs having attachment portions that are received in said abutment guideways and have attachment openings received over said attachment projection.

Regarding claim 33, the prior art does not teach or fairly suggest in combination with the other claimed limitations the box including box projection having and enlarged head, said attachment portions having opening for receiving said head, and head and said opening in at least one of said attachment portion being shaped to provide reception of said head through said opening and to prevent withdrawal of said head from said opening after said one attachment portion is rotated 90°.

Regarding claims 36 and 37, the prior art does not teach or fairly suggest in combination with the other claimed features a plurality of abutments on said external surface of said bottom wall spaced outwardly from said attachment portion and forming abutment guideways that extend perpendicular to one another past said attachment projection.

Regarding claims 38 and 39, the prior art does not teach or fairly suggest in limitations with the other claimed limitations a pair of generally spring leg members having a central attachment portion with an attachment opening therethrogh and a flat bendable strap, said flat bendable strap having a central attachment opening therethrough.

Regarding claims 40-42, the prior art does not teach or fairly suggest in limitations with the other claimed limitations at least one flat bendable metal strap having an opening therethrough, said projection and said opening being configured for reception of said projection through said opening in an alignment orientation of said projection and opening, and said projection and opening being configured for preventing movement of said projection through said opening when said strap and projection are rotated out of said alignment orientation with said projection extending through said opening.

Regarding claims 43 and 44, the prior art does not teach or fairly suggest in limitations with the other claimed limitations a pair of elongated flat bendable metal straps, said external surface and said metal straps being configured for attachment of said straps to said bottom wall with said straps extending generally perpendicular to one another in overlying relationship.

Regarding claims 45 and 46, the prior art does not teach or fairly suggest in limitations with the other claimed limitations a pair of elongated flat bendable metal straps having openings therethrough, said openings being configured for receiving said enlarged head therethrough, said enlarged head and at least one of said openings on at

least one of said straps being configured to provide reception of said enlarged head through said one opening and to prevent withdrawal of said head from said opening after rotating said one strap about said projection.

These limitations are found in claims 3, 11, 16, 28-30, 33 and 36-46, and are neither disclosed nor taught by the prior art of record, alone or in combination.

Conclusion

7. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 20, 2007

Angel R. Estrada
Primary Examiner
Art Unit: 2831